

FIRST REGULAR SESSION

HOUSE BILL NO. 1210

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HURST.

2419H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 304.230, RSMo, and to enact in lieu thereof one new section relating to commercial motor vehicles.

Be it enacted by the General Assembly of the state of Missouri, as follows:

2 Section A. Section 304.230, RSMo, is repealed and one new section enacted in lieu
3 thereof, to be known as section 304.230, to read as follows:

4 304.230. 1. It shall be the duty of the sheriff of each county or city to see that the
5 provisions of sections 304.170 to 304.230 are enforced, and any peace officer or police officer
6 of any county or city or any highway patrol officer shall have the power to arrest on sight or upon
7 a warrant any person found violating or having violated the provisions of such sections.
8 ~~[Beginning January 1, 2009, only]~~ Law enforcement officers that have been approved by the
9 Missouri state highway patrol under section 304.232, members of the Missouri state highway
10 patrol, commercial vehicle enforcement officers, and commercial vehicle inspectors appointed
11 under subsection 4 of this section shall have the authority to conduct ~~[random]~~ roadside
12 examinations or inspections **of commercial vehicles** to determine compliance with sections
13 304.170 to 304.230~~[-, and only such officers shall have the authority, with or without]~~ . **If such**
14 **officers have** probable cause to believe that the size or weight **of a commercial motor vehicle**
15 is in excess of that permitted by sections 304.170 to 304.230, ~~[to]~~ **they may** require the driver,
16 operator, owner, lessee, or bailee, to stop, drive, or otherwise move to a location to determine
17 compliance with sections 304.170 to 304.230. Notwithstanding the provisions of this subsection,
a law enforcement officer not certified under section 304.232 may stop a vehicle that has a
visible external safety defect relating to the enforcement of the provisions of sections 304.170
to 304.230 that could cause immediate harm to the traveling public. Nothing in this section shall

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 be construed as preventing a law enforcement officer not certified under section 304.232 from
19 stopping and detaining a commercial motor vehicle when such officer has probable cause to
20 believe that the commercial motor vehicle is being used to conduct illegal or criminal activities
21 unrelated to violations of sections 304.170 to 304.230. In the course of a stop, the law
22 enforcement officer shall identify to the driver the defect that caused the stop. If the **commercial**
23 **motor** vehicle passes a comprehensive roadside inspection, the law enforcement officer, state
24 highway patrolman, or other authorized person shall issue such vehicle a commercial vehicle
25 safety alliance inspection decal to be affixed to the vehicle in a manner prescribed by the
26 commercial vehicle safety alliance. The superintendent of the Missouri state highway patrol
27 shall promulgate rules and regulations relating to the implementation of the provisions of this
28 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
29 under the authority delegated in this section shall become effective only if it complies with and
30 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
31 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
32 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule
33 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
34 proposed or adopted after August 28, 2008, shall be invalid and void.

35 2. Any peace officer approved under section 304.232 or any highway patrol officer is
36 hereby given the power to stop any ~~[such conveyance or vehicle as above described]~~ **commercial**
37 **motor vehicle** upon the public highway for the purpose of determining whether such vehicle is
38 loaded in excess of the provisions of sections 304.170 to 304.230, and if he or she finds such
39 vehicle loaded in violation of the provisions thereof he or she shall have a right at that time and
40 place to cause the excess load to be removed from such vehicle; and provided further, that **if any**
41 **regularly employed maintenance man of the department of transportation has probable cause**
42 **to believe that a commercial motor vehicle is loaded in excess of the provisions of sections**
43 **304.170 to 304.230, that person** shall have the right and authority in any part of this state to stop
44 ~~[any such conveyance or]~~ **the commercial motor** vehicle upon the public highway for the
45 purpose of determining whether such vehicle is loaded in excess of the provisions of sections
46 304.170 to 304.230, and if he or she finds such vehicle loaded in violation of the provisions
47 thereof, he or she shall have the right at that time and place to cause the excess load to be
48 removed from such vehicle. When only an axle or a tandem axle group of a **commercial motor**
49 vehicle is overloaded, the operator shall be permitted to shift the load, if this will not overload
50 some other axle or axles, without being charged with a violation; provided, however, the
51 privilege of shifting the weight without being charged with a violation shall not extend to or
52 include vehicles while traveling on the federal interstate system of highways. When only an axle
53 or tandem axle group of the vehicle traveling on the federal interstate system of highways is

54 overloaded and a court authorized to enforce the provisions of sections 304.170 to 304.230 finds
55 that the overloading was due to the inadvertent shifting of the load changing axle weights in
56 transit through no fault of the operator of the vehicle and that the load thereafter had been shifted
57 so that no axle had been overloaded, then the court may find that no violation has been
58 committed. The operator of any **commercial motor** vehicle shall be permitted to back up and
59 reweigh, or to turn around and weigh from the opposite direction. Any operator whose
60 **commercial motor** vehicle is weighed and found to be within five percent of any legal limit may
61 request and receive a weight ticket, memorandum or statement showing the weight or weights
62 on each axle or any combinations of axles. Once a vehicle is found to be within the limits of
63 section 304.180 after having been weighed on any state scale and there is no evidence that any
64 cargo or fuel has been added, no violation shall occur, but a presumption shall exist that cargo
65 or fuel has been added if upon reweighing on another state scale the total gross weight exceeds
66 the applicable limits of section 304.180 or 304.190. The highways and transportation
67 commission of this state may deputize and appoint any number of their regularly employed
68 maintenance men to enforce the provisions of such sections, and the maintenance men delegated
69 and appointed in this section shall report to the proper officers any violations of sections 304.170
70 to 304.230 for prosecution by such proper officers.

71 3. The superintendent of the Missouri state highway patrol may assign qualified persons
72 who are not highway patrol officers to supervise or operate permanent or portable weigh stations
73 used in the enforcement of commercial vehicle laws. These persons shall be designated as
74 commercial vehicle inspectors and have limited police powers:

75 (1) To issue uniform traffic tickets at a permanent or portable weigh station for violations
76 of rules and regulations of the division of motor carrier services of the highway and
77 transportation commission and department of public safety, and laws, rules, and regulations
78 pertaining to commercial motor vehicles and trailers and related to size, weight, fuel tax,
79 registration, equipment, driver requirements, transportation of hazardous materials and operators'
80 or chauffeurs' licenses, and the provisions of sections 303.024 and 303.025;

81 (2) To require the operator of any commercial **motor** vehicle to stop and submit to a
82 vehicle and driver inspection to determine compliance with commercial vehicle laws, rules, and
83 regulations, the provisions of sections 303.024 and 303.025, and to submit to a cargo inspection
84 when reasonable grounds exist to cause belief that a vehicle is transporting hazardous materials
85 as defined by Title 49 of the Code of Federal Regulations;

86 (3) To make arrests for violation of subdivisions (1) and (2) of this subsection.
87 Commercial vehicle inspectors shall not have the authority to exercise the powers granted in
88 subdivisions (1), (2) and (3) of this subsection until they have successfully completed training

89 approved by the superintendent of the Missouri state highway patrol; nor shall they have the right
90 as peace officers to bear arms.

91 4. The superintendent of the Missouri state highway patrol may appoint qualified
92 persons, who are not members of the highway patrol, designated as commercial vehicle
93 enforcement officers, with the powers:

94 (1) To issue uniform traffic tickets for violations of laws, rules and regulations pertaining
95 to commercial **motor** vehicles, trailers, special mobile equipment and drivers of such vehicles,
96 and the provisions of sections 303.024 and 303.025;

97 (2) To require the operator of any commercial **motor** vehicle to stop and submit to a
98 vehicle and driver inspection to determine compliance with commercial vehicle laws, rules, and
99 regulations, compliance with the provisions of sections 303.024 and 303.025, and to submit to
100 a cargo inspection when reasonable grounds exist to cause belief that a vehicle is transporting
101 hazardous materials as defined by Title 49 of the Code of Federal Regulations;

102 (3) To make arrests upon warrants and for violations of subdivisions (1) and (2) of this
103 subsection. Commercial vehicle officers selected and designated as peace officers by the
104 superintendent of the Missouri state highway patrol are hereby declared to be peace officers of
105 the state of Missouri, with full power and authority to make arrests solely for violations under
106 the powers granted in subdivisions (1) to (3) of this subsection. Commercial vehicle
107 enforcement officers shall not have the authority to exercise the powers granted in subdivisions
108 (1), (2) and (3) of this subsection until they have successfully completed training approved by
109 the superintendent of the Missouri state highway patrol and have completed the mandatory
110 standards for the basic training and licensure of peace officers established by the peace officers
111 standards and training commission under subsection 1 of section 590.030. Commercial vehicle
112 officers who are employed and performing their duties on August 28, 2008, shall have until July
113 1, 2012, to comply with the mandatory standards regarding police officer basic training and
114 licensure. Commercial vehicle enforcement officers shall have the right as peace officers to bear
115 arms.

116 5. Any additional employees needed for the implementation of this section shall be hired
117 in conformity with the provisions of the federal fair employment and antidiscrimination acts.

118 6. Any part of this section which shall be construed to be in conflict with the axle or
119 tandem axle load limits permitted by the Federal-Aid Highway Act, Section 127 of Title 23 of
120 the United States Code (Public Law 85-767, 85th Congress) shall be null, void and of no effect.

121 7. The superintendent may also appoint members of the patrol who are certified under
122 the commercial vehicle safety alliance with the power to conduct commercial motor vehicle and
123 driver inspections and to require the operator of any commercial **motor** vehicle to stop and
124 submit to said inspections to determine compliance with commercial vehicle laws, rules, and

125 regulations, compliance with the provisions of sections 303.024 and 303.025, and to submit to
126 a cargo inspection when reasonable grounds exist to cause belief that a vehicle is transporting
127 hazardous materials as defined by Title 49 of the Code of Federal Regulations.

128 **8. For purposes of this section, the term "commercial motor vehicle" shall have the**
129 **same meaning as in section 302.700.**

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